

TITLE 327 WATER POLLUTION CONTROL BOARD

IDEM'S SUGGESTED CHANGES TO PROPOSED RULE 327 IAC 5-2.1 CONCERNING COMMUNITY NOTIFICATION OF POTENTIAL HEALTH IMPACTS OF COMBINED SEWER OVERFLOWS BY NPDES PERMIT HOLDERS LSA Document #00-136

Revisions made by LSA under the Administrative Rules Drafting Manual (IC 4-22-8-4(a) (2)) and incorporated into the printed version (LSA Document #00-136, published November 1, 2002, 26 IR 422) have been made in the version of the rule presented to the board for final adoption.

- Page 21. 327 IAC 5-2.1-1(2)
Delete **“persons”** after **“Alert”**
Insert **“members of the public”** after **“Alert”**
Delete **“most likely would”** after **“who”**
Insert **“may”** after **“who”**
- Page 22. 327 IAC 5-2.1-1(3)
Delete **“Protect persons”**
Insert **“Enable members of the public to protect themselves”**
- Page 33. 327 IAC 5-2.1-3(1)
Delete **“persons”** from the term being defined (**“Affected persons”**)
Insert **“public”** into the term being defined (term becomes **“Affected public”**)
Delete **“most likely would”** after **“means those persons who”**
Insert **“may”** after **“means those persons who”**
Delete **“includes”** after **“combined sewer overflow discharge and”**
Insert **“is limited to”** after **“combined sewer overflow discharge and”**
- Page 34. 327 IAC 5-2.1-3(1)(A)
Insert **“on or”** after **“residents”**
Delete **“a combined sewer overflow outfall”** after **“adjacent to”**
Insert **“affected waters”** after **“adjacent to”**
- Page 35. 327 IAC 5-2.1-3(1)(B)
Delete **“residents downstream of a combined sewer overflow outfall”** before **“on”**
Insert **“public and private schools”** before **“on”**
Insert **“or adjacent to”** after **“on”**
Delete **“and”** after **“affected waters;”**

- Page 36. 327 IAC 5-2.1-3(1)(C)
Delete “**a waterbody**” after “**opportunities in or on**”
Delete “**by a combined sewer overflow discharge**” after “**affected**”
Insert “**waters; and**” after “**affected**”
- Page 37. 327 IAC 5-2.1-3(1)(D)
Insert a new subdivision (D) to read as follows: “**(D) owners or operators of public drinking water systems with surface intakes in or on affected waters.**”
- Page 38. 327 IAC 5-2.1-4(a)
Insert “**;**” after “**community shall**”
Insert “**(1)**” to create subdivision (1) of “**develop a CSO notification procedure that meets the requirements of this rule**”
Insert “**; and**” after “**develop a CSO notification procedure that meets the requirements of this rule**”
Insert “**(2) incorporate the CSO notification procedure into its CSO operational plan.**” to create subdivision a new subdivision
- Page 49. 327 IAC 5-2.1-4(b)
Insert “**at a minimum**” after “**include the following information**”
- Page 410. 327 IAC 5-2.1-4(b)(1)
Insert a new subdivision (1) to read as follows: “**(1) Determination of affected waters for the purpose of providing community notification according to section 5 of this rule.**”
Renumber preliminarily adopted subdivision (1) as subdivision (2)
Insert “**:**” after “**Locations of**”
Insert “**(A)**” before “**the CSO outfalls**”
Insert “**;**” after “**the CSO outfalls**”
Insert “**(B)**” before “**public access points**”
Delete “**, and recreational facilities**” after “**public access points**”
Insert “**including boat launches and bridges**” after “**public access points**”
Insert “**; and**” after “**located on affected waters**”
Insert a new clause (C) to read as follows: “**(C) parks, school yards, parkways, and greenways on or adjacent to affected waters.**”

Insert a new subdivision (3) to read as follows: “**(3) Locations of drinking water suppliers having surface water intakes located within ten (10) river miles downstream of each CSO outfall within the CSO community’s jurisdiction.**”
- Page 411. 327 IAC 5-2.1-4(b)(2)
Renumber preliminarily adopted subdivision (2) as subdivision (4)

Insert **“the”** after **“used to provide notification to”**
Delete **“persons”** before **“within the area of each affected water”**
Insert **“public”** before **“within the area of each affected water”**

- Page 412. 327 IAC 5-2.1-4(b)(3)
Renumber preliminarily adopted subdivision (3) as subdivision (5)
- Page 413. 327 IAC 5-2.1-4(c)
Delete **“meet the following:”** after **“notification procedure must”**
Insert **“be:”** after **“notification procedure must”**
- Page 414. 327 IAC 5-2.1-4(c)(1)
Delete all the rule language of subdivision (1)
- Page 415. 327 IAC 5-2.1-4(c)(2)
Delete **“(2) Be”** from the beginning of preliminarily adopted subdivision (2)
Delete **“approval before the latter of the following:”** after **“submitted to the commissioner for”**
Renumber preliminarily adopted subdivision (2) as subdivision (1)
- Page 416. 327 IAC 5-2.1-4(c)(2)(A)
Delete **“(A) Four (4)”** from the beginning of preliminarily adopted clause (A)
Insert **“review six (6)”** before **“months after the effective date of this rule;”**
- Page 417. 327 IAC 5-2.1-4(c)(2)(B)
Delete clause B
- Page 418. 327 IAC 5-2.1-4(c)(3)
Delete **“(3) Be”** from the beginning of preliminarily adopted subdivision (3)
Renumber preliminarily adopted subdivision (3) as subdivision (2)
- Page 419. 327 IAC 5-2.1-4(c)(4)
Delete **“(4) Immediately be implemented”** from the beginning of preliminarily adopted subdivision (4)
Renumber preliminarily adopted subdivision (4) as subdivision (3)
Insert **“in the initial stages of implementation”** before **“by the CSO community”**
Delete **“following”** after **“by the CSO community”**
Insert **“upon”** after **“by the CSO community”**
Delete **“(2)(A) or (2)(B).”** after **“submission according to subdivision”**
Insert **“(1);”** after **“submission according to subdivision”**

Insert a new subdivision (4) to read as follows: **“(4) fully implemented no later than ninety (90) days after the date of submission according to subdivision (1); and”**

- Page 420. 327 IAC 5-2.1-4(c)(5)
Delete **“Be”** after **“(5)”**
Delete **“as necessary in accordance with comments received from”** after **“modified”**
Insert **“in order to ensure that the procedure is consistent with this rule if either of the following occurs:”** after **“modified”**
Insert **“(A)”** before **“the commissioner”**
Insert **“requests such modification within six (6) months of the date of submission of the notification procedure.”**
Insert a clause (B) to read as follows: **“(B) A member of the affected public requests that the department reevaluate the notification procedure.”**
- Page 421. 327 IAC 5-2.1-5(a)(1)
Delete **“persons”** after **affected”**
Insert **“public”** after **affected”**
- Page 422. 327 IAC 5-2.1-5(a)(2)
Insert **“other”** after **“(2)”**
Insert **“within the CSO community”** after **“persons”**
Insert **“in response to the public notice required by section 6(a)(1) of this rule”** after **“who request to be notified”**
- Page 423. 327 IAC 5-2.1-5(a)(3)
Insert **“having surface water intakes”** after **“drinking water suppliers”**
- Page 424. 327 IAC 5-2.1-5(d)
Delete **“one (1) of the following:”** after **“a reliable source indicates”**
Insert **“that:”** after **“a reliable source indicates”**
- Page 425. 327 IAC 5-2.1-5(d)(1)
Insert **“; or”** after **“outfalls is occurring”**
- Page 426. 327 IAC 5-2.1-5(d)(2)
Delete **“reasonable likelihood exists that a”** after **“(2) A”**
Delete **“will occur within the next twenty-four (24) hours.”** after **“combined sewer overflow outfalls”**
Insert **“is imminent based on predicted or actual precipitation or a related event.”** after **“combined sewer overflow outfalls”**
- Page 527. 327 IAC 5-2.1-5(e)

Delete subsection (e)

- Page 528. 327 IAC 5-2.1-5(f)
Reletter subsection (f) as subsection (e)
- Page 529. 327 IAC 5-2.1-6(a)
Insert **“unless alternative procedures are identified by the community that are equivalently effective”** after **“shall do the following”**
- Page 530. 327 IAC 5-2.1-6(a)(1)
Delete **“Send an invitation”**
Insert **“Provide public notice in a newspaper of general circulation”** before **“in March of each year”**
Delete **“persons”** after **“to allow the following”**
- Page 531. 327 IAC 5-2.1-6(a)(1)(B)
Delete **“persons”** after **“Affected”**
Insert **“public”** after **“Affected”**
- Page 532. 327 IAC 5-2.1-6(a)(1)(C)
Insert a new clause (C) to read as follows: **“(C) Other interested persons in the CSO community.”**
- Page 533. 327 IAC 5-2.1-6(a)(2)
Delete **“persons”** after **“Provide notification to”**
Insert **“those identified under subdivision (1)”** after **“Provide notification to”**
Delete **“accept the notification invitation according to clause (A):”** after **“who”**
Insert **“request receipt of CSO notification under subdivision (1):”**
- Page 534. 327 IAC 5-2.1-6(a)(2)(A)
Delete **“reasonably likely to occur within twenty-four (24) hours;”** after **“when a CSO discharge is occurring or is”**
Insert **“imminent based on predicted or actual precipitation or a related event;”** after **“when a CSO discharge is occurring or is”**
- Page 535. 327 IAC 5-2.1-6(a)(2)
Delete **“telephone or facsimile.”** after **“shall provide notice by”**
Insert **“a reasonable, effective means.”** after **“shall provide notice by”**
- Page 536. 327 IAC 5-2.1-6(b)
Insert **“within the CSO community’s jurisdiction”** after **“shall post a prominent sign”**

- Page 537. 327 IAC 5-2.1-6(b)(1)
Delete **“the”** after **“at access points to”**
Insert **“an affected** after **“at access points to”**
- Page 538. 327 IAC 5-2.1-6(b)(2)
Delete **“linear public areas, such as”** after **“(2) along”**
Insert **“on or”** after **“parkways and greenways”**
Delete **“intervals frequent enough”** after **“adjacent to affected waters at”**
Insert **“locations most likely”** after **“adjacent to affected waters at”**
Insert **“based on information available to the CSO community”** after **“come into direct contact with the water”**
- Page 539. 327 IAC 5-2.1-6(b)(3)
Delete **“following wording”** after **“with the”**
Insert **“language”** after **“with the”**
Delete **“and”** after **“printed in English”**
Insert **“or”** after **“printed in English”**
Insert **“that states or is equal in meaning to the following”** after **“necessary to fill in the blanks)”**
Insert **“or Wastewater”** both places where is follows after **“Sewage”**
- Page 540. 327 IAC 5-2.1-6(c)
Insert a new subsection (c) to read as follows: **“(c) Cautionary combined sewer overflow signs posted prior to the effective date of this rule advising that combined sewer overflows may occur at that point do not need to be replaced specifically to comply with the wording of subsection (b)(3). If, however, a cautionary combined sewer overflow sign existing prior to the effective date of this rule does need replacement due to reasons such as weathering or other reasons for replacement then the replacement sign must comply with the language suggested in subsection (b)(3).”**
- Page 541. 327 IAC 5-2.1-6(c)
Reletter subsection (c) as (d)
Insert **“or property outside a CSO community’s jurisdiction”** after **“is located on private property”**
- Page 542. 327 IAC 5-2.1-6(c)(1)
Delete **“post”** after **“annually offer to”**
Insert **“provide”** after **“annually offer to”**
Insert **“or nonjurisdictional”** after **“owner or operator of the private”**
- Page 643. 327 IAC 5-2.1-6(c)(2)
Delete subdivision (2) as follows: **“(2) submit documentation to the**

department each March that the property owner or operator has refused to allow the CSO community to post the sign on the owner's property;"

- Page 644. 327 IAC 5-2.1-6(c)(3)
Renumber subdivision (3) as (2)
Delete "**post**" after "**not be required to**"
Insert "**provide**" after "**not be required to**"
Insert "**or nonjurisdictional**" after "**provided the private**"
- Page 645. 327 IAC 5-2.1-6(d)
Delete subsection (d)